

**38 CFR Part 4****RIN 2900-AQ67****Schedule for Rating Disabilities: The Cardiovascular System****AGENCY:** Department of Veterans Affairs.**ACTION:** Final rule; correction.

**SUMMARY:** On September 30, 2021, the Department of Veterans Affairs (VA) published in the *Federal Register* a final rule that amended the portion of the VA Schedule for Rating Disabilities (“VASRD” or “rating schedule”) that addresses the cardiovascular system. This correction addresses the instructions for evaluating peripheral arterial disease in the published final rule and corrects another minor technical error.

**DATES:** This correction is effective November 14, 2021.

**FOR FURTHER INFORMATION CONTACT:** Gary Reynolds, M.D., VASRD Program Management Office (210), Compensation Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, D.C. 20420, (202) 461-9700. (This is not a toll-free telephone number.)

**SUPPLEMENTARY INFORMATION:** VA is correcting its final rule, “RIN 2900-AQ67, Schedule for Rating Disabilities: The Cardiovascular System”, that was published on September 30, 2021, in the *Federal Register* at 86 FR 54089. The error is with new Note (2) for diagnostic code (DC) 7114 peripheral arterial disease which fails to identify which of the four tests are necessary before an evaluation can be assigned. In the proposed rule, VA identified two major shortcomings in the rating criteria for DC 7114 that were addressed by creating evaluation criteria that use the ankle/brachial index (ABI), ankle pressure (AP), toe pressure (TP) and transcutaneous oximetry ( $T_cPO_2$ ) to describe four different levels of impairment. See 84 FR 37594, 37599 (Aug. 1, 2019).

New Note (2) instructed raters to select the highest impairment value of ABI, AP, TP, or T<sub>c</sub>PO<sub>2</sub> for evaluation when rating a condition under DC 7114. Upon further consideration, we believe the note could be misconstrued as requiring medical examiners to conduct all four tests. This is inconsistent with our intent, which was to provide examiners with multiple options in the event that ABI was unreliable due to non-compressible arteries. To address this issue, we are correcting new Note (2) to read, “If AP, TP, and T<sub>c</sub>PO<sub>2</sub> testing are not of record, evaluate based on ABI unless the examiner states that an AP, TP, or T<sub>c</sub>PO<sub>2</sub> test is needed in a particular case because ABI does not sufficiently reflect the severity of the veteran’s peripheral arterial disease. In all other cases, evaluate based on the test that provides the highest impairment value.” This correction serves two purposes: 1) it reflects VA’s intent that although ABI should be the primary testing by which conditions should be rated under DC 7114, raters should request AP, TP, or T<sub>c</sub>PO<sub>2</sub> testing when the record reflects that an examiner believes ABI testing does not sufficiently reflect a veteran’s level of impairment, and 2) when multiple tests are of record, it allows the rater to select the test result that would grant the veteran the highest evaluation.

Additionally, VA is fixing a technical error with the section heading for 38 CFR 4.100 to ensure that it is applicable to all diagnostic codes that could use the general rating formula for diseases of the heart in its evaluation criteria, such as DCs 7009 and 7110.

## **Correction**

In FR Rule Doc. No. 2021-19998, published September 30, 2021, at 86 FR 54089, make the following corrections:

**§ 4.100**      **[Corrected]**

1. On page 54093, at the top of the third column, remove the section heading “§ 4.100 Application of the evaluation criteria for diagnostic codes 7000–7007, 7011, and 7015–7020.” and add in its place “§ 4.100 Application of the general rating formula for diseases of the heart.”

2. On page 54095, in § 4.104, correct Note (2) in the entry for diagnostic code 7114 “Peripheral arterial disease” to read as follows:

**§ 4.104 Schedule of ratings– cardiovascular system.**

\* \* \* \* \*

DISEASES OF THE HEART	
	Rating
* * * *	* * *
7114 Peripheral arterial disease:	
* * * *	* * *
Note (2): If AP, TP, and T <sub>c</sub> PO <sub>2</sub> testing are not of record, evaluate based on ABI unless the examiner states that an AP, TP, or T <sub>c</sub> PO <sub>2</sub> test is needed in a particular case because ABI does not sufficiently reflect the severity of the veteran’s peripheral arterial disease. In all other cases, evaluate based on the test that provides the highest impairment value.	* * *
* * * *	

---

\* \* \*

---

**Jeffrey M. Martin,**  
*Assistant Director,*  
*Office of Regulation Policy & Management,*  
*Office of the Secretary,*  
*Department of Veterans Affairs.*

[FR Doc. 2021-24419 Filed: 11/8/2021 8:45 am; Publication Date: 11/9/2021]